

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION
NO. 7:23-CV-897**

IN RE:

CAMP LEJEUNE WATER LITIGATION

This Document Relates To:
***Robert J. Fiolek v. USA*, 4:23-CV-00062-D**

**UNITED STATES' NOTICE OF
WITHDRAWAL OF MOTIONS
RELATED TO ROBERT J. FIOLEK**

Defendant United States of America hereby respectfully withdraws the following motions as to the ***Robert J. Fiolek v. USA*, 4:23-CV-00062-D-BM**, case due to an agreement to settle that case; the motions are still applicable to the other active cases:

- Motion for Partial Summary Judgment Concerning Dichloroethylene [D.E. 43];¹
- Motion to Exclude the Opinions of Damian Laber, M.D., FACP (Leukemia) [D.E. 45];
- Motion to Exclude General Causation Opinions of Plaintiffs' Leukemia and NHL Experts Under Federal Rule of Evidence 702(b) and (d) For Misapplying the Bradford Hill Methodology [D.E. 47];
- Motion to Exclude Plaintiffs' Phase II Leukemia and NHL Experts Steven Bird, Lukasz Gondek, Kathleen Gilbert, Timothy Mallon, and Howard Hu (Literature Review Motion) [D.E. 48];
- Motion to Exclude Certain Plaintiffs' General Causation Experts' Testimony Utilizing the "At Least As Likely As Not" Standard [D.E. 50];

¹ Each Motion was filed on the Master Docket, 7:23-cv-00897, and the individual docket in the *Fiolek* case. The United States here provides the Docket Entry numbers for the Motions as filed on the individual docket in the *Fiolek* case.

- Motion to Exclude General Causation Opinions of Plaintiffs’ Leukemia and NHL Experts Under Federal Rule of Evidence 702(c) for: 1) Improperly grouping distinct diseases together; 2) Relying on an untested “synergy” theory; and 3) Relying on the inadmissible “any exposure” theory [D.E. 51];
- Motion for Summary Judgment Based on Plaintiffs’ Failure to Proffer Expert Testimony Admission under *Daubert* (Leukemia and Non-Hodgkin’s Lymphoma) [D.E. 54]; and
- Motion for Summary Judgment for Lack of Expert Testimony on But-For Causation [D.E. 57].

Once the settlement has been finalized, ***Robert J. Fiolek v. USA, 4:23-CV-00062-D-BM***, will be dismissed in due course.

Dated: November 6, 2025

Respectfully submitted,

BRETT A. SHUMATE
Assistant Attorney General,
Civil Division

JONATHAN D. GUYNN
Deputy Assistant Attorney General,
Torts Branch

BRIDGET BAILEY LIPSCOMB
Chief, Camp Lejeune Justice Act Section

ADAM BAIN
Special Litigation Counsel

TRACI C. MCKEEVER
PATRICK J. RYAN
DAVID R. ORTIZ
MARCUS O. TUBIN
JENNIFER E. ADAMS
Trial Attorneys

/s/ David R. Ortiz
DAVID R. ORTIZ
N.C. Bar No. 55891
Trial Attorney
United States Department of Justice
Civil Division, Torts Branch
Camp Lejeune Justice Act Section
310 New Bern Ave., Third Floor
Raleigh, NC 27601
(202) 451-7756
David.R.Ortiz@usdoj.gov

Attorney inquiries to DOJ regarding CLJA:
(202) 353-4426

*Attorneys for Defendant,
United States of America*

CERTIFICATE OF SERVICE

I hereby certify that on November 6, 2025, I electronically filed the foregoing using the Court's Electronic Case Filing system, which will send notice to all counsel of record.

/s/ David R. Ortiz